

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

NICHOLAS SAMPSON,)	
)	8:07CV155
Plaintiff,)	
)	
And)	
)	
MATTHEW LIVERS,)	8:08CV107
)	
Plaintiff,)	
)	
vs.)	STIPULATED PROTECTIVE ORDER
)	
EARL SCHENCK, et al.,)	
Defendants.)	

This matter came before the Court pursuant to Fed. R. Civ. P. 26(c), upon request for a Protective Order controlling the response by Douglas County/Douglas County Sheriff's Department, Omaha, Nebraska, a non-party, to a Subpoena Duces Tecum served upon the Custodian of its records. The subpoena seeks copies of the Douglas County Sheriff Department's records concerning an Internal Affairs Unit investigation or review of David Kofoed, an employee of the Sheriff's Department, who is not a party to this lawsuit.

This Court being advised in the premises, finds that the following Protective Order is appropriate.

IT IS ORDERED:

1. The Douglas County Sheriff's Department shall provide Plaintiff's counsel with one copy of the Internal Affairs Unit records sought by the Subpoena Duces Tecum subject to the terms of this Order.
2. The Internal Affairs Unit records shall be placed in one or more envelopes marked "CONFIDENTIAL MATERIAL" and shall be maintained separate from, and not commingled with, any other document or items.
3. Except as hereinafter provided or upon further order of the Court, no item in the confidential material nor any description or summary of its contents may be revealed to any person or entity except to the following parties in this action:

(i) Locke E. Bowman, Steven A. Drizin and Robert W. Mullin, attorneys for plaintiff Matthew Livers; Maren Chaloupka, attorney for Nicholas Sampson; Frederick Coffman, Attorney for defendants William Lambert and Charles O'Callaghan; and Kim K. Sturzenegger, attorney for defendants Earl Schenck, Sandra Weyers, and Cass County, Nebraska;

(ii) those law school interns, secretaries, and paralegals employed by the aforementioned attorneys who are assisting counsel in this action;

(iii) any person retained by the plaintiffs or defendants as an expert in this action; and

(iv) the Court.

4. Each individual described in Paragraph 3 above, to whom confidential material is disclosed, shall not disclose that information to any other individual, except as provided in this Order, or use it for any purpose other than in connection with this action. Before any confidential material may be disclosed to any person described in Paragraph, he or she shall have first read this Order or shall have otherwise been instructed in his or her obligations under this Order by counsel for the plaintiff.

5. All confidential material shall be viewed and/or used only for purposes of preparing and presenting this case. Prior to any public disclosure of the material at a hearing, trial, or in a motion to the court, counsel for Douglas County/ Douglas County Sheriff's Department, shall be notified of what material is intended to be disclosed and shall be provided an opportunity to object to the intended disclosure. The parties shall confer and attempt to agree, before any hearing, on the procedures under which confidential material may be introduced or otherwise used at such hearing, trial, or in connection with a motion to a court. Absent agreement, the Court shall be asked to issue an order governing the use of such confidential material.

6. Any person receiving a copy of the confidential material as allowed herein shall maintain the copy in the same manner as this Order requires of the initially provided material. All copies shall be considered to be included within the term "confidential material" as used in this Order and possession and use of any copy shall be subject to the terms of this Protective Order to the same extent as the originally provided material.

7. At the conclusion of this case all confidential material, including all copies, received pursuant to this Order shall be returned to counsel for Douglas County/Douglas County Sheriff's Department unless otherwise ordered by the Court.

8. This Protective Order shall not terminate upon the conclusion of this action but shall continue until the further order of the Court or until Douglas County/Douglas County Sheriff's Department has waived confidentiality in writing.

9. The Court may impose sanctions with respect to any person or entity improperly granting access to material subject to this Protective Order. Any person or entity, whether or not a party, violating the Protective Order may be punished for contempt of Court.

DATED this 21st day of November, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge

Approved as to form and content:

/S/ Diane M. Carlson

Diane M. Carlson, No. 20165

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